

Informational Guide

**Horse-Keeping Businesses and New Jersey Sales
& Use Tax**

**Prepared by the
New Jersey Department of Agriculture**

**In Cooperation with & Approved By:
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HORSE-KEEPING BUSINESSES AND NEW JERSEY SALES & USE TAX

Taxability of Horses

A business that breeds and raises horses for sale or that sells horses raised by others must register as a seller with the Division of Taxation and must collect and remit sales tax on its sale of horses, except when a specific statutory exemption applies.

Farm-Use Exemption

Under the Sales and Use Tax Act, an exemption from sales and use tax applies to the purchase of qualified tangible personal property (not including automobiles, energy, or materials used to construct a building or structure, with a few exceptions) and services that are used directly and primarily in the production, handling and preservation for sale of agricultural commodities on farms. N.J.S.A. 54:32B-8.16.

Horse-Breeding Farms Eligible for the Farm-Use Exemption

A business that is primarily engaged in breeding and raising horses for sale is treated as a “farming enterprise” for sales tax purposes. The horses that it breeds and raises for sale are its product and are deemed to be an “agricultural commodity.” Thus, a horse breeding farm is eligible for the farm-use exemption when it purchases qualified tangible personal property (e.g., feed) or services (e.g., shoeing) used in raising its horses for sale. The farmer should present the supplier with a properly completed Farmer’s Exemption Certificate (ST-7) to support the claimed exemption.

Horse-Keeping Businesses Not Eligible for the Farm-Use Exemption

The business of boarding or training horses or of renting horses to customers is *not* a “farming enterprise,” i.e., not an agricultural production business for the purposes of the farm-use exemption provisions. Therefore the business is not eligible to claim the farm-use exemption.

In many situations, the activities of a business may be statutorily deemed “agricultural use” for purposes of local property tax law, and thus qualify the land for Farmland Assessment, and yet the business would not qualify as a “farming enterprise” within the meaning of the Sales and Use Tax Act because it is not primarily engaged in producing an agricultural commodity. If a business is primarily engaged in boarding or training customers’ horses or in renting horses to customers for trail riding, it is not primarily engaged in producing an agricultural product. Therefore, although it may be viewed as a farm for property tax assessment purposes, it does not qualify for the farming use exemption from sales tax.

Taxability of Goods and Services Provided by Horse-Keeping Businesses

Horse Boarding

A business that boards horses needs to register as a seller. Many of its transactions will be taxable, and it will be required to collect sales tax.

Charges for boarding horses are taxable, unless a statutory exemption applies under the specific factual circumstances. For example, if the business boards horses for a horse dealer, who is in the business of selling the horses, the dealer may use a Resale Certificate (ST-3) and claim a resale exemption from sales tax. If it boards horses for a horse breeder, i.e., a farmer who is in the business of raising and breeding horses for sale, the farmer may use a Farmer's Exemption Certificate (ST-7) and claim the farm-use exemption from sales tax.

If, instead of charging a lump sum for boarding, the business itemizes the sales and services provided as part of boarding, the following general rules will apply:

- Separately stated charges for stall rental are subject to sales tax, unless the customer is entitled to a specific statutory exemption. Such charges are treated as the furnishing of space for storage, which became taxable effective October 1, 2006.
- Charges for feeding the horses are taxable as charges for maintaining tangible personal property, and are subject to tax unless the customer is entitled to claim a specific statutory exemption, as explained above (e.g., farm-use for a breeder, resale for a dealer).
- Separately stated charges for grooming or shoeing horses are taxable as charges for maintaining tangible personal property, unless the customer is entitled to a specific statutory exemption as explained above.
- Separately stated charges for training the horses are not taxable.

Providing Horses for Riding

Businesses that rent horses to customers are also required to register with the Division of Taxation as sellers and collect and remit sales tax.

A business that provides riding horses to customers (e.g., charges customers who borrow horses by the hour or by the day for trail riding) is deemed to be renting horses. Since these rentals are treated as retail sales, the amounts charged for use of the horses is subject to tax. See S&U-12: *Leases and Rentals*.

Training Horses

Charges for training horses are not taxable because training services do not fall within any of the categories of services enumerated as taxable in the Sales and Use Tax Act. They remain nontaxable even if some grooming or food is provided as an inconsequential element of the training service. However, if taxable services or property such as boarding, grooming services, feed, or horse accessories are provided as a significant element of the transaction, they must be separately stated and tax must be collected.

Resale Exemption

A horse rental business is eligible to claim a resale exemption when it purchases horses that it uses for rental to customers. However, if the business ever uses some of those horses to give riding lessons, or for any other purpose that does not constitute “resale” of the horses, the business will then be liable for self-assessing use tax on the fair rental value of those horses which it purchased tax-free, and which it is now using for a purpose inconsistent with resale.

A horse boarding business is entitled to a resale exemption when it purchases feed or medicines for the horses that it boards. The feed and medicines are deemed to be resold as part of the taxable service of boarding horses.

Generally, a business primarily engaged in training horses may not claim the resale exemption when it buys feed for the horses that it trains. Training is a nontaxable service and when the feeding is incidental to the training service, and no separate charges are made for the feed, the trainer is deemed to be the retail purchaser of the feed. However, if the trainer separately states the taxable charges for feed on its bill to the customer, then the purchase of the feed by the trainer is deemed to be an exempt purchase for resale.

Questions & Answers Relating to Sales and Purchases by Horse-Keeping Businesses

- 1. Is a business raising or breeding race horses for the purpose of selling them entitled to the farmers' exemption?*

Yes. The exemption applies if the horses are being raised for sale. However, the exemption applies only to those animals used exclusively as breeding stock or being grown for sale. Animals used for racing purposes do not qualify for the exemption.

- 2. What is the taxable status of sales of horses by a New Jersey horse farm?*

The sale of a horse by a New Jersey horse farm to a New Jersey resident or to a nonresident who accepts delivery in New Jersey is subject to tax unless the horse is being purchased for resale, or for use exclusively as breeding stock on a horse-breeding farm, or as a draft animal used exclusively in farm production, or unless the purchaser is either an exempt government entity (no ST-5 needed) or an

exempt private organization that has been issued Form ST-5 by the Division of Taxation.

3. *Are the charges for boarding a brood mare subject to sales tax?*
If the boarding of a mare is for the purpose of putting the mare to stud, and if the mare is owned by a person who is in the business of breeding and raising horses for sale, the boarding charges are not subject to tax. The owner should issue a Resale Certificate (ST-3) to the boarding facility.
4. *Are the charges for horseback riding subject to sales tax?*
Yes. The charges for horseback riding are deemed to be charges for the rental of the horse. However, separately stated charges for riding instruction, if any, are exempt.
5. *Are stall rentals subject to sales tax?*
Charges for stall rental are subject to sales tax, unless the customer is entitled to a specific statutory exemption. Such charges are treated as a sale of storage space, which became taxable effective October 1, 2006. Charges for horse boarding are also taxable, regardless of whether the stall rental is separately itemized.
6. *If land is rented to the owner of a horse for grazing without an individual stall, is the pasture rental subject to sales tax?*
No. Only when the rental is for an individual, enclosed, assigned space is sales tax to be charged.
7. *Is the purchase of a horse to be used exclusively for rental purposes taxable to the owner of a commercial riding stable or academy?*
No. Since the charges made for riding a horse and the equipment rented with the horse by a riding academy is deemed to be a purchase for resale, the purchaser may claim a resale exemption, supported by a properly executed Resale Certificate (ST-3). Purchases of tangible personal property and services from farriers and purchases of feed and medicines for riding horses are also deemed to be for resale.
8. *Are medicines and supplies used by veterinarians taxable?*
Yes. A veterinarian must pay sales or use tax on the purchase of all medicines and supplies used in treating clients' animals, even if the clients are horse farmers. If the veterinarian resells medicines and supplies to clients for their own use, the veterinarian must charge sales tax on its sale of the items and may claim a resale exemption when purchasing them for this purpose. Medicine separately billed by a veterinarian in connection with the treatment of breeding horses or horses being raised for resale or sold to the owner of a horse breeding farm is exempt if the owner issues a properly completed Farmer's Exemption Certificate (ST-7) to the veterinarian.

9. *Are charges by a veterinarian for medical services taxable?*

No. Professional medical services (e.g., exams, diagnostic tests, surgery, helping during delivery of foals) do not fall within any of the categories of services enumerated as taxable in the Sales and Use Tax Act. Charges for medical services by a veterinarian are exempt from sales tax.

10. *A horse owner sells a horse to another person for their own use. Can this transaction be considered a “casual” sale and therefore not subject to sales tax?*

A “casual” sale is defined in the Sales and Use Tax Act as one which is “an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales at retail where such property was obtained by the person making the sale, through purchase or otherwise, for his or her own use in this State.” Thus, if the person selling the horse was a horse dealer, a horse breeder or anyone else in a business which involved the buying and selling of horses, the sale cannot be a “casual sale” and is therefore taxable. If, however, the sale of the horse was made by a person who had purchased or otherwise acquired the horse for his or her own use, the transaction would be a casual sale and no tax would be due.

Contacts for Additional Information or Questions

The New Jersey Division of Taxation may be contacted at (609) 292-5995.

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Many State tax forms and publications are available on Taxation’s Web site at www.state.nj.us/treasury/taxation/.